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United States
Coast Guard



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DEPARTMENT OF HOMELAND SECURITY

U. S. COAST GUARD

STATEMENT OF

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DIRECTOR OF PREVENTION POLICY**

ON THE

**NEW ORLEANS OIL SPILL AND
SAFETY ON THE INLAND RIVER SYSTEM**

BEFORE THE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION

U. S. HOUSE OF REPRESENTATIVES

SEPTEMBER 16, 2008

Good morning Mr. Chairman and distinguished members of the Committee. It is a pleasure to appear before you today to discuss the Coast Guard's role in the New Orleans's oil spill and uninspected towing vessel (UTV) regulations. This statement discusses the current status of the spill and the requirements of towing vessel operators.

Summary of accident

The incident occurred within the boundaries of Coast Guard Sector New Orleans, one of seven Sectors reporting to the Eighth Coast Guard District. The Eighth Coast Guard District is headquartered in New Orleans.

At approximately 1:30 a.m. local time on July 23, 2008 the Tank Vessel (T/V) TINTOMARA, a 600' downbound chemical tank ship, collided with the DM932 tank barge being pushed by the upbound UTV MEL OLIVER near Mississippi River mile marker (MM) 98.2 at the Harvey Lock and one-half mile upriver from the New Orleans Central Business District. Tank barge DM932 was carrying approximately 419,286 gallons of No. 6 fuel oil and was hit near amidships on the port beam, resulting in a major inland oil spill. The Tank Barge DM932 sank as a result of the collision and two of its three tanks were breached releasing approximately 282,828 gallons of oil into the Mississippi River. The 136,458 gallons of oil that remained in the undamaged tank was ultimately transferred from the sunken barge into a storage tank. The T/V TINTOMARA did not suffer a hull breach nor discharge any of its styrene and biodiesel fuel cargo.

At the time of the incident, UTV MEL OLIVER was operated by DRD Towing and owned by American Commercial Lines (ACL). Tank Barge DM932 was owned by ACL. While the UTV MEL OLIVER had an assigned crew of a Captain, Steersman apprentice, and two deckhands, the Captain was not aboard the vessel at the time of the collision. The steersman apprentice was operating the MEL OLIVER at the time of the collision. He was licensed but his license did not authorize him to operate the vessel without the captain's presence in the wheelhouse.

While there were no immediate notifications to the Coast Guard of personnel injuries on any of the vessels involved in the collision, there have been subsequent notifications to the investigating officer of minor injuries from the two deckhands onboard the MEL OLIVER. Those injuries involve back and neck strain.

The Response

Watchstanders at Coast Guard Vessel Traffic Service (VTS) Lower Mississippi River, which is located in New Orleans, were the first Coast Guard personnel to become aware of the collision. When the vessels were less than a half mile apart, the UTV MEL OLIVER turned slowly to port and began to cross the river; the path of which would have the Tank Barge DM932 cross bow of the T/V TINTOMARA. VTS watch standers observed both vessels approaching one another, heard the T/V TINTOMARA call repeatedly to the UTV MEL OLIVER to ascertain the vessel's intentions, and independently hailed the UTV MEL OLIVER. The UTV MEL OLIVER did not return the radio call outs from the T/V TINTOMARA or VTS prior to the collision. Immediately after the collision, the VTS Watch Supervisor notified the Sector New Orleans Command Center of the incident. Recognizing the potential danger and impact on surrounding vessel traffic, the VTS under the authority of the Captain of the Port closed the Mississippi River between MM 98 and MM 99 three minutes after the collision.

The VTS and Sector Command Center worked quickly to confirm that there were no injuries and no need for Search and Rescue operations. Coast Guard small boats and an Incident Management

Team from Sector New Orleans were dispatched to assess on scene damage and enforce a safety zone. One of the responsible parties, ACL, responded immediately to the incident and hired multiple Oil Spill Recovery Organizations (OSROs) shortly after being notified. The first (OSRO) was en route approximately 30 minutes after the collision and two more arrived on scene within two hours. Sector New Orleans coordinated first light overflights by Coast Guard Air Station New Orleans aircrafts to assess the impact of the spill and direct on-water recovery efforts. ACL also notified and dispatched its own Spill Management Team from their headquarters in Evansville, Indiana within hours of the incident. The Coast Guard notified the National Transportation Safety Board (NTSB) of the marine casualty within 6 hours of the collision.

A Unified Command (UC), including the Coast Guard Captain of the Port, Responsible Party, State of Louisiana officials, and other federal partners, was established to respond to the incident, protect public health, minimize adverse impact to the environment, and safely and efficiently reopen this critical waterway. Recognizing the precise extent of damage to DM932 might not be available for days, response efforts were based on an assumption of a total loss of cargo.

As a result of the incident nearly 100 miles of the Mississippi River from New Orleans to the Gulf of Mexico was closed to vessel traffic for six days. At the height of the response, five OSROs were cleaning up the spill with over 2,000 employees, ten skimmers, 300,000 feet of boom, four vacuum trucks, four barges, and 200 work boats. Over 80 miles of shoreline was surveyed with 100 Coast Guard members working with more than 2,300 people from dozens of federal, state, parish and local government agencies, as well as industry and oil spill response organizations.

The Unified Command successfully coordinated the recovery and restoration of area's marine transportation system. Simultaneous with these efforts, the Unified Command also oversaw the closure and opening of impacted water intakes, salvage of the damaged barge, oil spill response operations, wildlife capture, cleaning and rehabilitation, air quality monitoring, water sampling and other related missions.

Recognizing the economic importance of the Mississippi River to the city, state, region, and Nation, the Unified Command employed a Marine Transportation System Recovery Unit (MTSRU) within the Unified Command to identify and prioritize vessel movements to facilitate commerce without jeopardizing spill response and recovery efforts. The MTSRU for this incident was comprised of Coast Guard personnel from Sector New Orleans, Maritime Transportation System Recovery Assist Team members, and interagency and port stakeholders representing multiple facets of shipping and commerce interests. Using pre-established plans, the MTSRU coordinated the movement and rapid cleaning of hundreds of vessels to restore river traffic and quickly re-open the marine transportation system to full traffic.

Although a safety zone remained in effect during the pollution response, normal traffic was allowed to transit the Lower Mississippi River on July 30, 2008, just one week after the incident. The vessel cleaning stations remained open until August 13, 2008, three days after the salvage operations concluded to account for any vessels that may have become oiled while the barge was being removed. A total of 1,190 vessels were cleaned (106 deep draft, 94 tugs, 981 barges and 9 integrated tug and barges). All locks and water intakes were opened by August 10, 2008, and all ferries resumed normal operations by August 22, 2008. More than 320,000 gallons of oil and oily water have been recovered.

Investigations

Within twenty hours of the spill, the Eighth Coast Guard District Commander convened a District Formal Marine Casualty Investigation of the incident. The Coast Guard's formal investigation is conducted under the authority of Title 46, United States Code Section 6301 and Title 46, Code of Federal Regulations Part 4. The investigation is intended to determine the cause of the casualty to the extent possible and to obtain information for the purpose of preventing or reducing the effects of similar casualties in the future. The investigation also assesses if there is evidence of any incompetence, misconduct, or willful violation of law on the part of any licensed officer, pilot, seaman, employee, owner, or agent of such owner of any vessel involved or any inspector, officer of the Coast Guard, or other officer or employee of the United States, or any other person, which caused or contributed to the cause of this casualty. Additionally, the investigation identifies evidence of any violation of the provisions of the United States Code or any of the regulations issued there under.

Initial response to the investigation included four (4) qualified investigating officers (IO) and 2 break-ins, along with three (3) pollution investigators. An additional qualified IO joined the team within the first day. Within 10 hours all persons directly involved with the movement of the tanker TINTOMARA, including the Pilot, and the three (3) crewmembers of the UTV MEL OLIVER were drug and alcohol tested. All persons tested in relation to the tanker TINTOMARA yielded negative results for drugs or alcohol. Test results from the UTV MEL OLIVER yielded two (2) negative results and one (1) positive result; the Steersman and off-duty deckhand tested negative and the on-duty deck-hand tested positive for tetrahydrocannabinol (THC), a substance contained in marijuana.

Upon learning of the casualty, the NTSB sent personnel to New Orleans to investigate as well and has actively assisted the investigating officer during the fact-finding portion of the investigation. The NTSB has participated in the Coast Guard investigatory hearings held to date. In doing so, the NTSB may make recommendations about the scope of the investigation, call and examine witnesses, and submit or request additional evidence.

For the formal investigation six Parties in Interest have been designated; the TINTOMARA, the MEL OLIVER, Captain Chance Gould (Pilot onboard the TINTOMARA), American Commercial Lines (ACL) Inc. (owners of both the Tank Barge DM932 and the MEL OLIVER), DRD Towing (operator of the MEL OLIVER), the Captain assigned to the MEL OLIVER but not onboard at the time of the marine casualty, and the Steersman of the MEL OLIVER.

46 Code of Federal Regulations Part 4.03-10 defines a "party in interest." That section provides that "The term party in interest shall mean any person whom the Marine Board of Investigation or the investigating officer shall find to have a direct interest in the investigation conducted by it and shall include an owner, a charterer, or the agent of such owner or charterer of the vessel or vessels involved in the marine casualty or accident, and all licensed or certificated personnel whose conduct, whether or not involved in a marine casualty or accident is under investigation by the Board or investigating officer."

The Coast Guard formal investigation has held one public hearing to date and is currently in recess. The investigative hearing is scheduled to resume on the 9th of October. The Coast Guard will issue its report after the fact finding and analysis is complete. Likewise, the NTSB intends to

issue a report when its investigation is complete. These reports may take six months to a year to complete.

Licensing Standards for Towing Vessels

The Secretary of Transportation and Coast Guard conducted a comprehensive examination of the safety of towing vessels after the September 1993 collision of a towing vessel and its barges with a railroad bridge near Mobile, Alabama. The examinations identified a need to improve licensing, training, and qualifications of operators of uninspected towing vessels.

In May 2001, the Coast Guard implemented a new licensing framework for maritime officers on towing vessels. The new licensing scheme consisted of a progression of three licenses titled master of towing vessels, mate (pilot) of towing vessels, and apprentice mate (steersman). Those officers who had towing vessel experience prior to the rulemaking were grandfathered into the new endorsement.

A mariner obtains a license authorizing service on towing vessels through the following:

- After 18 months of service (12 months of which must be on towing vessels) a mariner may undergo examination by the Coast Guard (or complete an approved training course) and, if successful, receive a license as apprentice mate (steersman).
- After 12 months of service on towing vessels (a total of 30 months) as an apprentice mate (steersman), training, and assessment of his/her demonstration of professional skill, the mariner may receive a license as mate (pilot) of towing vessels.
- After 18 months of professional experience as a mate (pilot) of towing vessels (a total of 48 months of service), a mariner is eligible to receive a license as master of towing vessels.

The Coast Guard also requires that towing vessel officers provide evidence of ongoing training and drills, or an assessment of professional skills when they renew their license authorizing towing service.

Additionally, the Coast Guard provided a process by which mariners licensed to serve on vessels greater than 200 gross register tons (GRT) can obtain authority to operate towing vessels. Previously, any mariner with a license to operate steam and motor vessels was allowed to operate towing vessels with no additional requirements. Now, an officer seeking the endorsement as master or mate (pilot) of towing vessels on their license must have at least 30 days of training and observation on towing vessels, and complete a towing officer assessment record showing evidence of assessment of practical demonstration of skills.

Licenses for officers of towing vessels are issued for either Oceans, Near-Coastal, Great Lakes-Inland, or Western Rivers routes. A mariner must document at least 90 days on the route they are seeking. For Great Lakes-Inland and Western Rivers routes an officer may choose to seek authorization for only a limited geographic area within the specified route. This allows the mariner to obtain a license as master of towing vessel with only 36 months of service and completion of a limited examination and limited assessment of professional skills, as appropriate for the reduced route.

If a seagoing towing vessel is greater than 200 GRT or on an international voyage, the officers must meet the requirements of the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, 1978, as amended. These requirements are in addition to the requirements for those as master or mate (pilot) of towing vessels.

In general, each towing vessel of at least 26 feet must be operated by an individual licensed as a master of towing vessels or as a master of steam or motor vessels greater than 200 GRT holding either an endorsement on his or her license for towing vessels or a completed Towing Officer's Assessment Record signed by a designated examiner indicating that the officer is proficient in the operation of towing vessels. The license must be endorsed for the route upon which the vessel is operating.

If a towing vessel operates more than 12 hours in any 24 hour period a second officer must be on the vessel. The second officer must hold a license as master or mate (pilot) of towing vessel, or a license as master or mate of steam or motor vessels of greater than 200 GRT endorsed for towing vessels or holding a completed Towing Officer Assessment Record and having evidence of 30 days of training and observation on towing vessels.

The unlicensed crewmembers on towing vessels of at least 100 GRT must have a merchant mariner's document, except those crewmembers serving on towing vessels operating only on rivers and lakes (except the Great Lakes). At least 50 percent of the deck crew on a towing vessel, where merchant mariner's documents are required, must hold an endorsement for a rating of at least Able seaman. Able seamen are not required on towing vessels operating on bays and sounds connected directly with the seas.

Towing vessels are not part of the United States fleet of inspected vessels and the Coast Guard does not conduct routine examinations of these vessels or their crew. The Coast Guard does conduct enforcement actions on towing vessels in response to a maritime incident, (marine casualty, pollution, etc.), as part of voluntary examinations, during random vessel boardings, or in response to a credible report of improper manning. Additionally, during the mariner application process the Coast Guard ensures that mariners have met the requirements of licensing and credentialing regulations.

As part of a response to a maritime incident, the investigators review the credentials of the persons on board. During this process, they ensure that the appropriate credential is held by the mariner and that it is valid. If the investigation reveals evidence of possible misconduct, negligence or violation of law, a recommendation may be made to pursue suspension and revocation against the credential.

Some Coast Guard Districts have established a voluntary examination program for towing vessels. Depending on resource availability, participating towing vessels are examined by the Coast Guard under these programs for compliance with all laws and regulations including manning requirements.

Examinations will serve as a "bridge" acquainting both vessel operators and the Coast Guard with oversight of these domestic vessels using a safety management system and third-party audits and surveys.

Coast Guard's Issuance of Discontinued Licenses

When the Coast Guard created the new licensing scheme for towing vessels, it discontinued the use of licenses titled "Operator" and "2nd class operator" of uninspected towing vessels. It recently came to our attention that a minimal number of licenses were improperly renewed using the old titles vice "Master of Towing Vessel." The Coast Guard is taking steps to replace the five active licenses that were improperly issued. It is important to recognize that although those licenses included the wrong title, the mariners to whom they were issued were qualified to operate towing vessels.

Towing Industry Regulation

The Coast Guard and towing industry share an urgency to complete regulations to initiate inspections for certification. Currently, the Coast Guard intends to publish a Notice of Proposed Rulemaking in 2009. We are diligently working to meet that deadline.

The Coast Guard intends to develop regulations to inspect towing vessels and has worked closely with the Towing Safety Advisory Committee (TSAC) on the endeavor. TSAC developed a comprehensive set of recommendations including use of third party organizations to conduct alternate compliance verification of towing vessels and company safety management systems. Within such a scheme, the Coast Guard would be responsible for approval and oversight of the third party organizations and audits of the alternate programs subject to inspection. This ongoing engagement with TSAC has been productive, with the most recent meeting in March 2008 resulting in additional recommendations. The Coast Guard will consider those options and others in determining the best methodology to ensure towing vessel safety.

Thank you for the opportunity to testify before you today. I look forward to your questions.